IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH.

Date of decision : 7-12-2006

State of Haryana Vs. Nanu Ram

CORAM: **Hon'ble Mr. Justice Virender Singh**
Hon'ble Mr. Justice A.N. Jindal

Present: Mr. Sunil Katyal, DAG, Haryana.

Virender Singh, J.

Respondent Nanu Ram was allegedly found to have kept in his conscious possession 210 grams of charas and 5 Kilograms of poppy husk on 8-6-2003 when he was apprehended by Gianender Singh ASI in the area of village Kharadwal, District Jind. Consequently he was booked in a case FIR No. 90 dated 8-6-2003, under Sections 15 & 20 of the Narcotic Drugs and Psychotropic Substances Act (for short the `Act'), registered at police station Sadar Narwana.

In order to substantiate the charge against the respondent/accused, the prosecution has examined as many as nine witnesses besides tendering into evidence affidavits to prove the link evidence. The plea of the respondent/accused was of false implication.

The learned trial Court while discussing the entire evidence in detail has acquitted the respondent. Hence this appeal by the State of Haryana along with an application (Criminal Misc. No. 629-MA/2006) under Section 378(3) Cr.PC for grant of leave.

We have heard Mr. Katyal, learned State counsel and with his assistance gone through the impugned judgment minutely.

Mr. Katyal primarily sets score by one basic infirmity in the impugned judgment wherein the trial Court has observed that the respondent-accused has been deprived of his right as envisaged under Section 50 of the Act. We do agree with the learned State counsel to that extent and observe that the finding of the learned trial Court in this regard in para 16 of the impugned judgment is not sustainable as Section 50 was not attracted in this case.

However, on our asking Mr. Katyal has read out the statements of certain material witnesses, the collective effect of which is that in our view, the prosecution has not been able to prove the charge against the respondent/accused beyond any shadow of reasonable doubt. The learned trial Judge has also discussed certain infirmities in paras 17 and 18 of the impugned judgment and we do not find any flaw in the findings.

Having minutely scrutinized the evidence on record, we are of the firm view that it is not a case warranting our interference and for taking a different view than the one already taken by the learned trial Court as we do not find the impugned judgment to be palpably wrong, erroneous or perverse.

Consequently we decline to grant leave to appeal and Crl. Misc. No. 629-MA of 2006 is dismissed.

[Virender Singh]
Judge

[A.N. Jindal]
Judge

December 7, 2006
`ask'